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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/552,523

10/07/2005

Per Henrik Hansen

GRP0138US

2575

23413 7590 06/01/2009
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EXAMINER

DAVIS, ROBERT B

ART UNIT

PAPER NUMBER

1791

NOTIFICATION DATE

DELIVERY MODE

06/01/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/552,523 | HANSEN, PER HENRIK | |
| | Examiner | Art Unit | |
| | Robert B. Davis | 1791 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The lack of unity requirement has been withdrawn. Accordingly, claims 10-19 are being examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 10 is indefinite because it is unclear if the phrase “such as lamellae” on lines 5-6 is referring to the lamellae disposed on the endless belt or refers to additional lamellae.
5. Claim 17 is indefinite because it is unclear if the phrase “such as lamellae” on line 7 is referring to the lamellae disposed on the endless belt or refers to additional lamellae.

Claim Objections

6. Claim 17 is objected to because of the following informalities:
7. On line 9 of claim 17, “ice confection” should be “ice cream product”. Appropriate correction is required.

Allowable Subject Matter

8. Claims 10-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

9. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teach or suggest an apparatus for producing ice confection comprising: mold cavities arranged on lamellae disposed in an endless belt along which are arranged process means for the production of the ice confection by conveying the lamellae between the process means, wherein the apparatus comprises an uneven number of rows of mold cavities, and the process means are arranged along the belt in such a way, that the ice confection production process may be completed by two full revolutions of a specific mold cavity on the belt. None of the prior art of record teach or suggest an apparatus for forming an ice confection wherein the combination of an uneven number of rows of mold cavities arranged along the belt that may be completed by two full revolutions of a specific mold cavity on the belt. Claim 10 includes the means-plus-function limitation of "process means for the production of the ice confection" which has been interpreted as filling device for laying chocolate onto the empty mold and upon the ice cream in an adjacent mold row, suction devices and scrapers for removing excess chocolate from a part of the chocolate and the top of the mold, respectively, a freezer for freezing the chocolate layers, a filling device for feeding ice cream into the chocolate shell. Likewise, the prior art of record fails to disclose the method of forming a cover shell in mold cavities, filling of the shell with ice cream, the method completed by movement of the mold cavities formed on the lamellae, wherein

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the belt comprises an uneven number of rows of mold cavities and the production process is completed by two full circulations of the specific mold cavity, the belt being conveyed stepwise two lamellae at a time or continuously at an even speed, whereby two rows of mold cavities are conveyed for each function cycle of the production process. The closest prior art is outlined in the specification in regards to figures 2 and 3 of the application.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 571-272-1129. The examiner can normally be reached on Monday-Friday 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert B. Davis/
Primary Examiner, Art Unit 1791
5/22/09